

REMARKS

Claims 1, 3-14, 16, and 18-29 are pending. Claims 15 and 30 have been cancelled without prejudice, and claims 2, 17, and 31-45 were previously cancelled. Claims 1 and 16 have been amended. No new matter has been introduced. Reexamination and reconsideration of the present application are respectfully requested.

Applicant would like to thank the Examiner for his time during the telephonic interview, which took place on December 5, 2008. Applicant has amended the claims in accordance with the discussions that took place during the interview. It is believed that the discussions helped to advance prosecution of the application.

In the September 30, 2008 Office Action, the Examiner rejected claims 1, 3-16, and 18-30 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,709,654 to Klatz et al., in view of U.S. Patent No. 6,249,717 to Nicholson et al. This rejection is respectfully traversed.

The present invention generally relates to external infusion devices that include a vent on the housing of the device to permit air to move in and out of the housing while inhibiting the entrance of fluids into the housing.

Independent claim 1, as amended, recites:

a drive system to operatively couple with the reservoir to infuse the fluid into the body;

a housing adapted for use on an exterior of the body, wherein the housing is sized to contain at least a portion of the reservoir, wherein the drive system is at least partially contained within the housing, wherein the drive system

operatively couples with the at least a portion of the reservoir within the housing, and wherein the housing is sized to be carried by a user without significant restriction on mobility;

electronic control circuitry coupled to the drive system to control infusion of the fluid into the body;

*wherein the housing has at least one vent port covered with a hydrophobic material that permits the passage of air into and out of the housing and inhibits the passage of liquids into the housing through the at least one vent port covered with the hydrophobic material such that air pressure within an interior of the housing but external to the reservoir is equalized with air pressure outside of the housing.*

The Klatz reference is directed to an apparatus and method for preserving organs in brain-dead patients or cadavers, which keeps the requisite organs viable for extended periods of time such that the organs may be preserved for subsequent harvesting and transplantation. The Klatz reference does not disclose, teach, or suggest the external infusion device of independent claim 1, as amended. As already acknowledged by the Examiner, the Klatz reference "fails to explicitly teach wherein the vent ports (68, 69) are covered by a hydrophobic material that inhibits the passage of liquids and permits the passage of gases therethrough" (see Office Action, page 3, lines 1-4).

Furthermore, unlike independent claim 1, as amended, the Klatz reference does not make any mention that *the housing has at least one vent port covered with a hydrophobic material that permits the passage of air into and out of the housing and*

*inhibits the passage of liquids into the housing through the at least one vent port covered with the hydrophobic material such that air pressure within an interior of the housing but external to the reservoir is equalized with air pressure outside of the housing.* The openings (68, 69) disclosed by the Klatz reference are for venting excess oxygen and for oxygen intake in connection with adjusting the proper amount of oxygenation of the fluid to be pumped into a brain-dead patient or cadaver, and does not show *at least one vent port covered with a hydrophobic material...such that air pressure within an interior of the housing but external to the reservoir is equalized with air pressure outside of the housing*, as recited in independent claim 1, as amended.

The Nicholson references does not make up for the deficiencies of the Klatz reference. The Nicholson reference is directed to a liquid medication dispenser apparatus that monitors compliance with a treatment plan and determines a compliance score indicative of whether the liquid medication was dispensed at predetermined times and at predetermined dose levels. The Nicholson reference does not disclose, teach, or suggest the external infusion device of independent claim 1, as amended. Unlike independent claim 1, as amended, the Nicholson reference does not make any mention that *the housing has at least one vent port covered with a hydrophobic material that permits the passage of air into and out of the housing and inhibits the passage of liquids into the housing through the at least one vent port covered with the hydrophobic material such that air pressure within an interior of the housing but external to the reservoir is equalized with air pressure outside of the housing.*

The Nicholson reference mentions "hydrophobic vent 84" only once in the entire specification (see col. 6, lines 5-8), but it does not disclose, teach, or suggest anywhere

*at least one vent port covered with a hydrophobic material that permits the passage of air into and out of the housing and inhibits the passage of liquids into the housing*, as recited in independent claim 1, as amended. Applicant believes that the “hydrophobic vent 84” of the Nicholson reference is simply an *uncovered* hole of a size where droplets of water do not enter but air may still pass through. A hydrophobic material is not mentioned anywhere in the Nicholson reference. Furthermore, unlike in independent claim 1, as amended, where the at least one vent port covered with the hydrophobic material allows for *air pressure within an interior of the housing but external to the reservoir to be equalized with air pressure outside of the housing*, the vent 84 of the Nicholson reference is coupled to an air vent tube 82 that leads into the *interior of the reservoir* to assist in venting for proper flow of liquid out of the reservoir. Accordingly, applicant respectfully submits that independent claim 1, as amended, distinguishes over the above-cited references.

Claims 3-14 all depend, directly or indirectly, from independent claim 1, as amended. Accordingly, applicant respectfully submits that dependent claims 3-14 also distinguish over the above-cited references for the reasons set forth above with respect to independent claim 1, as amended. Independent claim 16, as amended, recites limitations similar to independent claim 1, as amended. Claims 18-29 all depend, directly or indirectly, from independent claim 16, as amended. Accordingly, applicant respectfully submits that claims 16 and 18-29 also distinguish over the above-cited references for the reasons set forth above with respect to independent claim 1, as amended.

Applicant believes that the foregoing amendments place the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (818) 576-5291 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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